

REMARKS

The Final Office Action mailed December 29, 2008 has been reviewed and carefully considered. Reconsideration of the above-identified application, as herein amended and in view of the following remarks, is respectfully requested.

Claims 1-8 and 26 are pending in this application. Claims 9-20 have been cancelled without prejudice pursuant to a Restriction Requirement. Claims 21-25 have been withdrawn. Applicant reserves the right to file one or more divisional applications for the withdrawn claims. Claims 1 and 7 have been amended. No new matter has been added by the amendments.

§112 REJECTIONS

Claims 1-6 have been rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In response, Applicant has amended claim 1 to replace “the plurality of pre-defined frequency values” with “a plurality of pre-defined frequency values.” Withdrawal of the rejection is respectfully requested.

§103 REJECTIONS

Claims 1-3 and 5-7 were rejected under 35 U.S.C. §103(a) as being unpatentable over Zuqert in view of U.S. Patent No. 4,940,951 to Sakamoto (hereinafter Sakamoto). Claim 4 was rejected under 35 U.S.C. §103(a) as being unpatentable over Zuqert as modified by Sakamoto in view of U.S. Patent No. 6,389,548 to Bowles (hereinafter Bowles). Claim 8 was rejected under 35 U.S.C. §103(a) as being unpatentable over Zuqert

as modified by Sakamoto in view of Bowles. Claim 26 was rejected under 35 U.S.C. §103(a) as being unpatentable over Zuqert as modified by Sakamoto in view of U.S. Publication No. 2002/0072817 to Champion. Applicant respectfully disagrees with the rejections.

As affirmed by the Examiner on page 4 of the Final Office Action mailed December 29, 2008, Zuqert fails to disclose a processor for polling the decoder for detecting a loss of phase lock condition in the demodulation of the audio file signal, essentially as claimed in claims 1 and 7. Sakamoto was now cited as allegedly correcting the deficiencies of Zuqert, however Applicant respectfully disagrees.

Sakamoto teaches a phase lock recovery apparatus for a phase locked loop circuit having a voltage controlled oscillator. Sakamoto's apparatus is stable during phase lock loop operation and recovers to a phase locked state when a phase unlocked state has occurred. However, while Sakamoto arguably generally discusses detecting whether a phase unlocked state has occurred, its' technique for detecting the phase unlocked state is wholly unrelated to that of the present invention. Namely, Sakamoto uses an error detector section 20a in a manner described as follows:

The error detector section 20a detects data errors when the errors occur in the PCM data output from the QPSK signal demodulator 14 or detects digital data decoded in the PCM decoder 20 itself in a manner well-known to those skilled in the art. The error detector section 20a produces an error detection pulse S1 with a high level when a prescribed amount of the errors are detected. The error detection pulse S1 is applied to a switch 21, as described later.

The errors occur in the PCM data of the digital data, when the PLL circuit 16 goes out of the phase locked state for the QPSK modulation wave and into a phase unlocked state. A large amount of the phase error signal occurs, e.g., at an instant of power ON, during channel switching or upon receipt of a foreign disturbance, as described before.

(See Sakamoto, Col. 6, lines 8-23)

Significantly, Sakamoto fails to disclose or suggest at least polling the decoder for detecting a loss of phase lock condition in the demodulation of the audio file signal, essentially as claimed in claims 1 and 7. Instead, Sakamoto's detection circuit (which is coupled to the PLL circuit for detecting whether a phase unlocked state has occurred for the PLL circuit), performs its detection of an unlocked state via a *passive* process, in which data errors are detected in data output, wherein when a prescribed amount of errors occur, an alert signal is sent to initiate a phase lock recovery operation. This in no way amounts to a disclosure or suggestion of polling a decoder for detecting a loss of phase lock condition as presently claimed, which refers to actively sampling the status of the decoder device; that is, polling refers to where the decoder is repeatedly and actively checked for the loss of phase lock condition. Clearly, there is no active checking or inquiry of a status (or a decoder) for a loss of phase lock condition in Sakamoto. Sakamoto merely utilizes a passive means of error detection and accrual of errors to trigger an error detection pulse, which is necessary to initiate a phase lock recovery operation.

Accordingly, claims 1 and 7 are asserted to be patentable and nonobvious over Zuqert in view of Sakamoto for at least the reasons stated above. Claims 2-3, 5-6 depend from claim 1. The dependent claims include the limitations of their respective independent claims and are therefore believed to be patentable and nonobvious for at least the reasons stated for claims 1 and 7.

The rejection of claims 4, 8 and 26 is based, in part, on the contention that Zuqert and/or Sakamoto discloses or suggests the features of claims 1 and 7, from which such claims respectively depend. However, in light of amendments and discussion above, it is clear that the combination of Zuqert and Sakamoto with Bowles and/or Champion is

legally deficient, since, at the very least, as explained above, Zuqert and/or Sakamoto does not disclose or suggest the features of claims 1 and 7, from which claims 4, 8 and 26 respectively depend. Accordingly, withdrawal of all the §103 rejections is respectfully requested.

DOUBLE PATENTING REJECTION

Claims 1-8 and 26 are provisionally rejected on the ground of non-statutory obviousness type double patenting as being unpatentable over claims 1, 7-8 of co-pending U.S. Application Serial No. 10/516859 in view of Zuqert. Applicant will consider filing a duly executed Terminal Disclaimer in compliance with 37 C.F.R. 1.321 to overcome this rejection upon resolution of all other existing matters.

It is therefore respectfully submitted that the present invention is not disclosed or suggested by the cited references taken alone or in combination. Claims 1-8 and 26 are believed to be in condition for allowance for at least the reasons stated above. Withdrawal of all the rejections and early and favorable reconsideration of the case is respectfully requested.

CONCLUSION

In view of the foregoing, Applicant respectfully requests that the rejections of the claims set forth in the Final Office Action of December 29, 2008 be withdrawn, that pending Claims 1-8 and 26 be allowed, and that the case proceed to early issuance of Letters patent in due course. As discussed above, a terminal disclaimer will be filed upon indication by the Examiner that all other existing issues are resolved.

It is believed that no additional fees or charges are currently due. However, in the event that any additional fees or charges are required at this time in connection with the application, they may be charged to applicant's representatives Deposit Account No. 07-0832.

Respectfully submitted,

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